

FREDERICK COUNTY PLANNING COMMISSION
Wednesday, April 19, 2006
Minutes

Commission Members Present: Alan Duke, Chairman
 Joseph Brown III, Secretary
 Robert White, Vice Chairman
 Fern Hines
 Joan McIntyre
 Michael Cady, BOCC Liaison

Commission Members Absent: J. Denham Crum

Planning Staff Present: Steve Kaii-Ziegler, Director of Planning
 Eric Soter, Assistant Director
 Jim Gugel, Chief, Comprehensive Planning
 Timothy Blaser, Land Preservation Administrator
 Anne Bradley, Agricultural Preservation Planner
 Mark Depo, Development Review Planning Director
 Denis Superczynski, Principal Planner
 Amber DeMorett, GIS Data Planner
 Caryl Wenger, Recording Secretary

The Afternoon Session began at 2:00 p.m.

Mr. Duke opened the meeting and introduced the Planning Commission members to the viewing audience.

MINUTES:

Mr. Brown made a motion to approve the minutes for July 20, 2005, February 15, 2006, and March 15, 2006. Ms. McIntyre seconded the motion. Motion carried unanimously

Motion: Brown/2nd McIntyre
Vote: 6 – 0 – 1 – 0
For: Duke, Brown, White, Crum, Cady, Hines
Against: None
Absent: Crum
Abstain: None

PLANNING COMMISSION COMMENTS

None.

PLEASE NOTE BOTH AUDIO AND VIDEO TAPES ARE AVAILABLE UPON REQUEST.

AGENCY COMMENTS

None.

MALPF DISTRICT APPLICATIONS

AD-06-03 – Shriver Property -- 248 acres located on both sides of Four Points Road, south of Taneytown Pike (MD Rt. 140).

Mr. Blaser introduced the application to the Planning Commission, and answered relevant questions. He stated that the applicants will need to put a soil conservation plan in place. Ms. Bradley then offered a slide presentation. Staff recommended approval.

Applicant

The Shrivvers were present. Mrs. Shriver stated that they currently farm the property along with their son and son-in-law, and further stated that several of their grandchildren hope to participate in the farming operation in the future.

Public Comment

None.

Other Comments

Mr. Cady asked when the soil conservation plan would need to be in place. Mr. Blaser replied that the applicants would need to apply for the soil conservation plan, and have it certified, prior to easement application, which is due by July 1, 2006.

Decision

Mr. White made a motion to recommend consistency with the Comprehensive Plan. Mr. Brown seconded the motion. Motion carried.

Motion: White/2nd Brown
Vote: 6 – 0 – 1 – 0
For: Duke, Brown, McIntyre, Hines, White, Cady
Against: None
Absent: Crum
Abstain: None

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AD-06-04 - Hatter Property (Contract Purchaser) -- 175 acres located north of Motter Station Road, west of Old Frederick Road, and east of U.S. Route 15.

Mr. Blaser introduced the application to the Planning Commission, and stated that no adverse Agency comments were forthcoming. Ms. Bradley then presented a slideshow of the property, and finished by stating that Staff recommended approval.

Applicant

Mr. Hatter stated that he came from Emmitsburg, he wants to go back to Emmitsburg, and that this is the perfect property for him. To ensure his plans for the future, he said, it is absolutely critical for the property to be placed under Ag Preservation.

Public Comment

None.

Decision

Mr. White made a motion to recommend consistency with the Comprehensive Plan. Mr. Brown seconded the motion. Motion carried.

Motion: White/2nd Brown
Vote: 6 – 0 – 1 – 0
For: Duke, Brown, McIntyre, Hines, White, Cady
Against: None
Absent: Crum
Abstain: None

PRESENTATION OF THE 2005 PUPIL YIELD STUDY RESULT

Mr. Soter detailed the 2005 Pupil Yield Study Result to the Planning Commission, with the help of Ms. Beth Passierb of the Board of Education. This particular survey utilized the Student Information Card, he said, and there was a 92% rate of return for all grade levels, which was remarkable.

Ms. Passierb stated that the Pupil Yield rates would take effect retroactively to March 30, 2006, and any plan submitted after that date would use these new rates.

Mr. Cady expressed concern that the school figures could be distorted due to students being transferred to elementary schools, out of their communities, because their siblings attend a nearby daycare. He questioned whether those numbers should be “backed out” of the totals. Ms. Passierb replied that if all the transferred students came from the same type of housing, it could be an issue, but that if the students came from various types of housing, i.e., townhomes, single-family homes, and multi-family homes, there would not be a significant impact. Mr. Cady’s concern was for subsequent financial decisions made with regard to specific communities.

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Mr. Cady then stated that he felt there should be a policy established between the respective agencies to regularly schedule this survey on some basis of frequency. He went on to say that the Planning Commission's recommendation on the matter should go to both the Board of Education and the Board of County Commissioners – as a recommendation – and should be adopted as policy by both Boards. He suggested that the matter be resolved at the next joint meeting.

Ms. McIntyre questioned the philosophy behind allowing transfers to other schools. Ms. Passierb stated that under the current policy, schools under 100% of capacity are declared "open," and individual students may apply for a transfer into that school. Transfers are not automatically granted, though. Students must provide a good reason for the transfer.

Ms. McIntyre then asked whether the Planning Commission could talk to the Board of Education about not allowing "open" transfers until it is actually determined that a new school will be well under capacity. Mr. Cady stated that he thought the Board of Education would be receptive to any thoughts made to them. He also stated that sometimes allowing for transfers relieves an overcrowding in another school, and to that extent, it serves a good purpose. "There are sometimes good reasons for transfers," he said.

Ms. Hines then asked whether certain parts of the Pupil Yield Study would be included in the Comprehensive Plan. She stated that she felt it was important for those persons contemplating a move to Frederick County to have this information. Mr. Soter suggested that there may be a better place for the information to appear, and asked for time to consider it.

Public Comment

None.

Motion

Mr. Cady opted to make a motion to have the Planning Staff prepare and present a recommendation to the Board of County Commissioners and to the Board of Education on how frequently the Pupil Yield Study should be implemented. He stated that he would like to see this done on a regular basis. Mr. White seconded the motion.

Motion: Cady/2nd White
Vote: 6 – 0 – 1 – 0
For: Duke, Brown, McIntyre, Hines, White, Cady
Against: None
Absent: Crum
Abstain: None

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PRESENTATION OF COMMERCIAL/INDUSTRIAL LAND INVENTORY

Mr. Soter highlighted some of the results of the Commercial/Industrial Land Inventory Report to the Planning Commission, and acknowledged Ms. Amber DeMorett's efforts in the endeavor.

Mr. Cady asked for the percentage of aggregate land mass zoned for business purposes. Mr. Soter stated that the actual current zoning figure is 3.37% zoning and that the comprehensive planned figure is 3.77%. Ms. DeMorett stated that if the municipalities were added in, the commercial figure for the entire County would be close to five (5%) percent. Mr. Cady then asked if there was a similar study setting forth the amount of land that is zoned for residential purposes. Mr. Soter replied that we do not, but that the question will be answered when the Parcel Project is complete.

EMMITSBURG ANNEXATION

Mr. Superczynski presented this request from Emmitsburg East Industrial Park LLC to have 39.69-acres of property annexed into the Town of Emmitsburg, with IP (Industrial Park) zoning. This was the former Waybright property. Mr. Superczynski reported that the majority of the property is designated as "Light Industrial," with a remaining 8-10 acres on the northern end being designated as "sensitive areas." This sensitive area appears to follow the FEMA 100-year flood plain line, he said, and that particular end of the property would constitute a mild inconsistency with the Comprehensive Plan. Discussion followed regarding the sensitive area.

Applicant

Attorney Scott Miller appeared on behalf of the Applicants. He stated that Emmitsburg East Industrial Park LLC purchased the property from the Waybrights, and filed an amended annexation petition to reflect the change in ownership.

Mr. Miller asked that the area comp-planned "LI" be found consistent with the request for Town "IP" zoning. He stated that he had no issue with the Planning Commission finding the area within the FEMA floodplain to be inconsistent with the Comprehensive Plan, and not waiving the inconsistency as it relates to the floodplain only.

For the record, and for the purpose of absolute clarity, he asked that any area between what is shown as "LI" and what is shown on the 100-year flood plain found to be inconsistent with the Comprehensive Plan be given a waiver of inconsistency so that there is a very clean understanding that everything from the FEMA floodplain line to the north be "not recommended" for "IP" zoning, and that everything from the FEMA floodplain line to the south be "recommended" for IP zoning.

Public Comment

None.

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Decision

The Planning Commission voted to recommend a finding of consistency to the Board of County Commissioners for the area falling below the determined FEMA floodplain line, and a finding of inconsistency without a waiver for the land that is within the determined floodplain line.

Motion: White/2nd Brown
Vote: 4 – 1 – 1 – 1
For: Duke, Brown, Hines, White
Against: McIntyre
Absent: Crum
Abstain: Cady

VILLAGE OF ASPEN SECTION I

Mr. Duke swore in all those persons wishing to testify on the matter.

Mr. Mark Depo presented this request for approval to allow a height of three stories (not to exceed 40 feet) on 218 previously approved single-family detached units bordered by Eaglehead Drive to the north and Lake Linganore to the south within the Lake Linganore PUD per Section 1-19-321(c)(3) of the Zoning Ordinance. He stated that Staff concurs with and supports the applicant's height request justification due to the flexibility allowed under the PUD zoning district, which encourages a variety of housing types. Further, he stated that Staff concurs with the applicant's request for the Planning Commission's review of the height increase request as a miscellaneous item pursuant to Section 7.5 of the Frederick County Planning Commission Rules of Procedure.

Applicant

Attorney Krista McGowan appeared on behalf of the Applicants, Craftmark Homes and Land Stewards, LC. She stated that these lots were recorded over thirty years ago without a site plan. Because of this, it was determined that a miscellaneous request was the appropriate way to bring the matter before the Planning Commission. She pointed out that the Applicants are not proposing bigger houses. They are merely attempting to take fairly standard types of models and accommodate them to the uphill terrain, allowing the homes to be constructed in a more environmentally friendly way. She went on to say that they are complying with the setbacks required within the ordinance, and asked for the Commission's approval of a height modification of up to forty (40') feet in the Aspen Section of Lake Linganore.

Public Comment

None.

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Decision

Ms. McIntyre made a motion to grant the modification, not to exceed forty feet, for the single-family detached units in Aspen, Section 1, and to attach the following condition:

1. *Applicant shall provide a copy of the County approval letter regarding the FcPc approval of the height modification request to allow a maximum height not to exceed forty (40) feet with the submission of building permits for units within the Aspen, Section I development.*

Mr. Brown seconded the motion.

Motion: McIntyre/2nd Brown
Vote: 5 –1– 1 – 0
For: Duke, Brown, McIntyre , White, Cady
Against: Hines
Absent: Crum
Abstain: None

Ms. McIntyre then made a motion to have Staff bring back information and recommendations on height restrictions for residential units within sixty (60) days. Mr. Brown seconded the motion.

Motion: McIntyre/2nd Brown
Vote: 6 –0– 1 – 0
For: Duke, Brown, McIntyre, Hines, White, Cady
Against: None
Absent: Crum
Abstain: None

Mr. Duke announced that the next meeting would be held on May 10, 2006.

He also announced that there would be two open houses on the Walkersville Region Plan. The first is scheduled for April 20, 2006 from 5 p.m. to 8 p.m. at the Libertytown Volunteer Fire Department, and the second is scheduled for May 4, 2006, from 5 p.m. to 8 p.m. at the Walkersville Town Hall.

Mr. Cady announced that the County Commissioner's Public Hearing on the New Market Region Plan Update would be held on April 25, 2006, at 7 p.m. at the Langanore High School.

Mr. White stated that there have been no applications received for the Planning Commission opening that will soon be available. The opening will be advertised a second time, he said, and all applications should be filed before May 1, 2006.

The meeting adjourned at 3:55 p.m.

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Respectfully submitted,

Caryl J. Wenger, Recording Secretary

Alan E. Duke, Chairman

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